UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,699	09/19/2003	Bjorn Bjare	P17466-US2	1996

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ERICSSON INC.
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EXAMINER
VERDI, KIMBLEANN C

ART UNIT	PAPER NUMBER
2194	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **_Before the Filing of an Appeal Brief_**	_10/666,699_	BJARE ET AL.
	Examiner	**Art Unit**	
	KimbleAnn Verdi	2194	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 May 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3 </u>months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

     (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

     (b)☐ They raise the issue of new matter (see NOTE below);

     (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

     (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>See Continuation Sheet</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _1-7,9-12,14-21 and 23_.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

    /Meng-Ai An/
    Supervisory Patent Examiner, Art Unit 2195

Continuation of 5. Applicant's reply has overcome the following rejection(s): Applicant's reply has overcome the following rejection(s): 35 U.S.C 101 rejection of claims 1-9 and 15-23.

Continuation of 7. Applicant's arguments with respect to claims 1-7, 9-12, 14-21 and 23 have been fully considered but they are not persuasive. In response to the Final Office Action dated December 11, 2007, applicant argues in regards to claims 1-7, 9-12, 14-21 and 23:
Hager discloses that there are two modes available (two types of dispatches: callback and poll, as seen in col. 7 lines 40-43 of Hager). However, in Hager, the (chosen) mode is hard coded which differs from the dualism of the present invention. The present invention provides a dualism, that is, a way of switching between the two modes in run time (see claims 1 and 15 wherein it states: "wherein the application may switch between the callback mode and the full message mode at any time"). The Examiner incorrectly equates the disclosure of the two modes in Hager with the dualism of the present invention. Furthermore, it is the application i.e. the client, which has the full control of and performs the switch of the modes and the actual initiation of the communication. Therefore, it would not have been obvious to a person skilled in the art to combine Lavin with Hager in order to obtain the present invention as a combination of these references would result in a message transmitting mechanism which has one of the modes (callback or poll) hardcoded, meaning that a switch between the modes in run time would not be possible. The cited references are technically unable to obtain the advantage of the present invention wherein a component is able to handle asynchronous responses dynamically since the message transmitting mechanism of the present invention is able to switch between the two modes at run time. (page 10, lines 8-16).

In response to Applicant's argument, examiner respectfully disagrees and notes that Hager discloses wherein the application or another module may switch between the callback mode and the full message mode at any time. Hager teaches the dispatcher object 2g includes a callback object 2a and a poll object 6c , Figure 6, representing two types of dispatches available (col. 6, lines 7-10) and Figure 6 teaches a dispatcher object which may switch between the callback mode and the full message mode at any time Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. In re Mraz, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972). See MPEP 2125 and 2121.94.

For example, the dispatcher object supporting callback and polling modes of dispatches (col. 6, lines 7-10 and Figure 6), can be interpreted as wherein the another module may switch between the callback mode and the full message mode at any time, since the dispatcher object switches between modes depending on the news object being dispatched (col. 5, lines 19-25 and col. 6, lines 12-25). In addition, the first application program object 1a is itself a dispatcher and thus the first application program object 1a inherits the behaviors associated with the dispatcher object (col. 6, lines 26-29), which can be interpreted as wherein the application may switch between the callback mode and the full message mode at any time, since the dispatcher object switches between modes depending on the news object being dispatched (col. 5, lines 19-25 and col. 6, lines 12-25).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the message broker of Lavin with the teachings of dispatcher from Hager because this feature would have provided a mechanism for a callback object 2a, and a poll object 6c representing two types of dispatches available (col. 6, lines 7-10 and Figure 6 of Hager). Examiner applied the factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), for determining obviousness under 35 U.S.C. 103, in light of KSR. The motivation for the combination is provided above and on page 6 of the Final Office Action dated December 11, 2007. Examiner specifically provided analysis as required.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. the application, i.e. the client, which has the full control of and performs the switch of the modes at run time) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).